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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Elizabeth Carley, a/k/a Melissa Arias,

Petitioner,

v.

Jo Gentry, Warden, et al.,

Respondents.

Case No. 2:14-cv-02097-JCM-BNW

**Unopposed motion for extension of
time in which to file opposition to
the State's motion to dismiss**

(Third request)

Elizabeth Carley respectfully moves this Court for an extension of time of thirty (30) days, from September 21, 2020, to and including October 21, 2020, to file an opposition to the State's motion to dismiss.

ARGUMENT

1. The Court previously stayed this case so Ms. Carley could litigate her unexhausted claims in state court, and the Court reopened the case on June 19, 2019. ECF No. 55. The State filed another motion to dismiss on February 19, 2020. ECF No. 65. The Federal Public Defender, District of Nevada, asked to be appointed to the case, and the Court granted the request on April 10, 2020. ECF No. 70. The counseled opposition to the State's motion to dismiss is due on September 21, 2020.

2. Counsel respectfully suggests additional time remains necessary to properly prepare the opposition. Since the prior extension motions, counsel has reviewed the relevant files from this case that are currently in his possession. Those records include files provided by prior counsel, as well as the records filed in the instant case and in Ms. Carley's corresponding state court proceedings. However, it appears counsel's current set of files may be missing some materials, such as police records that on information and belief the prosecution would've disclosed to the defense during the state court discovery process. Because counsel believes it's necessary to track down these records before preparing any pleadings in this case, additional time is necessary to allow counsel to attempt to locate these materials and then prepare and finalize any appropriate pleadings or motions.

3. Counsel has had many professional obligations in the past two months, including, among others, an opposition to a motion to dismiss filed on July 29, 2020, in *Cordova v. Baca*, Case No. 3:19-cv-00388-MMD-CLB (D. Nev.); a motion to reopen and a second amended petition filed on July 31, 2020, in *Rosales v. Neven*, Case No. 3:16-cv-00003-RCJ-WGC (D. Nev.); a reply in support of a petition filed on August 7, 2020, in *Richard v. Howell*, Case No. 2:18-cv-00181-KJD-NJK (D. Nev.); a reply brief filed on August 18, 2020, in *Cortinas v. Dzurenda*, Case No 80417 (Nev. Sup. Ct.); a reply brief filed on August 18, 2020, in *Murray v. Thomas*, Case No. 80392 (Nev. Sup. Ct.); a reply in support of a petition, along with a proposed third amended petition

1 and a proposed supplemental opposition to a motion to dismiss, filed on August 24,
2 2020, in *Melendez v. Neven*, Case No. 2:15-cv-02076-JAD-VCF (D. Nev.); an opposi-
3 tion to a motion to dismiss filed on August 27, 2020, in *Brown v. Baker*, Case No. 3:19-
4 cv-00258-LRH-WGC (D. Nev.); and a motion to remand filed on September 10, 2020,
5 in *Olsen v. Baker et al.*, Case No. 20-72428 (9th Cir.). In addition, counsel was out of
6 the office on vacation from August 31, 2020, until September 8, 2020.

7 4. Counsel has many additional professional obligations in the next two
8 months, including, among others, an opening brief due on September 24, 2020, in
9 *Bynoe v. Baca*, Case No. 81083 (Nev. Sup. Ct.); an opening brief due on September
10 28, 2020, in *Cortinas v. Gentry*, Case No. 20-16227 (9th Cir.); an amended petition
11 due on October 2, 2020, in *Hobson v. Howell*, Case No. 2:20-cv-00503-KJD-NJK (D.
12 Nev.); a second amended petition due on October 2, 2020, in *Ferguson v. Williamson*,
13 Case No. 2:19-cv-00946-GMN-BNW (D. Nev.); a reply in support of a petition due on
14 October 5, 2020, in *Burch v. Baker*, Case No. 2:17-cv-00656-MMD-VCF (D. Nev.); an
15 opening brief due on October 7, 2020, in *Patterson v. Howell*, Case No. 20-15635 (9th
16 Cir.); an amended petition due on October 26, 2020, in *Marquez v. Neven*, Case No.
17 3:20-cv-00073-RCJ-WGC (D. Nev.); an amended petition due on October 29, 2020, in
18 *Crawford v. Howell*, Case No. 2:19-cv-01574-RFB-BNW (D. Nev.); a reply in support
19 of a petition due on November 2, 2020, in *Esquivel v. Williams*, Case No. 2:17-cv-
20 02227-RFB-BNW (D. Nev.); and an evidentiary hearing scheduled for November 4,
21 2020, in *Bradford v. Filson*, Case No. 2:13-cv-01784-RFB-EJY (D. Nev.).

22 5. Therefore, counsel seeks an additional thirty (30) days, up to and includ-
23 ing October 21, 2020, in which to file the opposition to the motion to dismiss. Since
24 appointment, this is counsel's third request for an extension of time in which to file
25 the opposition (in an abundance of caution, he previously filed an extension request
26 on Ms. Carley's behalf at the same time he requested appointment, but that occurred
27 prior to his actual appointment to this case).

6. On September 21, 2020, counsel contacted Senior Deputy Attorney General Allison Herr and informed her of this request for an extension of time. As a matter of professional courtesy, Ms. Herr had no objection to the request. Ms. Herr's lack of objection shouldn't be considered as a waiver of any procedural defenses or statute of limitations challenges, or construed as agreeing with the accuracy of the representations in this motion.

7. This motion is not filed for the purposes of delay, but in the interests of justice, as well as in the interest of Ms. Carley. Counsel for Ms. Carley respectfully requests this Court grant the motion and order Ms. Carley to file the opposition to the motion to dismiss no later than October 21, 2020.

Dated September 21, 2020.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ *Jeremy C. Baron*
Jeremy C. Baron
Assistant Federal Public Defender

IT IS SO ORDERED:

James C. Mahan
United States District Judge

Dated: September 25, 2020